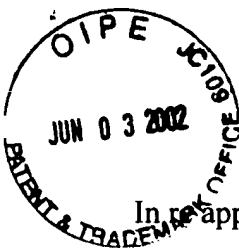


1637

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PATENT  
Attorney Reference Number 2847-54358



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 06 2002

TECH CENTER 1600/2900

In re application of: Santosh Misra

Art Unit: 1637

Application No.: 09/641,540

Filed: August 18, 2000

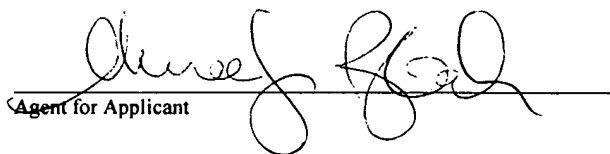
For: PLANT-GENE PROMOTER AND  
METHODS OF USING THE SAME

Examiner:

Date: May 23, 2002

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service on May 23, 2002 as First Class Mail in an envelope addressed to: BOX NON-FEE AMENDMENT, COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231.

  
Agent for Applicant

TRANSMITTAL LETTER

BOX NON-FEE AMENDMENT  
COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

Enclosed is an Amendment and Reply to Restriction Requirement for the above application. The fee has been calculated as shown below.

CLAIMS AS AMENDED					
For	No. after amendment	No. paid for previously	Present Extra	Rate	Fee
Total Claims	35	- 48*	= 0	\$9.00	\$0.00
Indep. Claims	1	- 3**	= 0	\$42.00	\$0.00
Mult. Dep. Claims Fee (if not previously paid)				\$140.00	\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

\* greater of twenty or number for which fee has been paid.

\*\* greater of three or number for which fee has been paid.

☒ No additional fee is required.

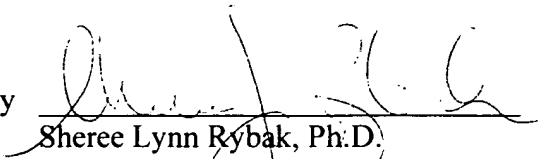
☒ Please charge any additional fees that may be required in connection with filing this amendment and any extension of time, or credit any overpayment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.

- ☒ A Marked-up Version of Amended Claims Pursuant to 37 C.F.R. §§ 1.121(b)-(c) is attached.
- ☒ Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By

  
Sheree Lynn Rybak, Ph.D.  
Registration No. 47,913

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121 S.W. Salmon Street  
Portland, Oregon 97204  
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Facsimile: (503) 228-9446

cc: Docketing

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED**

Re Application of: Santosh Misra

Art Unit: 1637

JUN 06 2002

Application No. 09/641,540

Filed: August 18, 2000

For: PLANT-GENE PROMOTER AND METHODS OF  
USING THE SAME

Examiner: Teresa E. Strzelecka

Date: May 23, 2002

BOX NON-FEE AMENDMENT  
COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

CERTIFICATE OF MAILING

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Agent for Applicant

TECH CENTER 1600/2900

#10/B  
max  
6/14/02

**AMENDMENT AND REPLY TO RESTRICTION REQUIREMENT**

This is a response to a Restriction Requirement dated May 7, 2002. A one-month period for response was set, making a response due on or before June 7, 2002.

Claims 1 and 7-54 were pending in the application after the previous amendment. In the previous response to restriction requirement dated January 14, 2002, Applicants provisionally elected the claims of Groups I-V (claims 1-16, and 19-21) for prosecution, with traverse. Applicants' mistakenly believed that the sequences shown in SEQ ID NOS: 22-25 were subsequences of SEQ ID NO: 17. Although part of the sequences shown in SEQ ID NOS: 22-25 are subsequences of SEQ ID NO: 17, SEQ ID NOS: 22-25 also contain a GUS tag at their C-terminus as a means to detect promoter activity (see FIG. 3). Therefore, Applicants now elect Group I (SEQ ID NO: 17 and the portions of SEQ ID NOS: 22-25 which are subsequences of SEQ ID NO: 17).

**In the claims:**

Please cancel claims 17, 18, 22-29 and 49-51 without prejudice to prosecution in a future application.

Please amend the claims as follows. For the Examiner's convenience, claims that have not been amended are denoted as "reiterated."